IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 36930 of 2007(U)

PETITIONER:

PHILIS KORREYA, AGED 60 YEARS,
W/O STANLY KORREYA, VARAKALAPURAKAL HOUSE,
RAMESWARAM VILLAGE, KOCHI TALUK.

BY ADV. SRI.C.T.JESTIN

RESPONDENTS:

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1. INDIAN RARE EARTH LTD.,
CHAVARA, KOLLAM, REPRESENTED BY ITS
CHIEF GENERAL MANAGER, CHAVARA, KOLLAM.

2. THE SURVEY SUPERINTENDENT,
OFFICE OF THE SURVEY SUPERINTENDENT,
KOLLAM.

3. TALUK SURVEYOR,
KARUNAGAPPILLY TALUK,
KARUNAGAPPILLY.

BY GOVERNMENT PLEADER, SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C) No. 36930 of 2007(U)
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Dated this the 14th day of December, 2007

JUDGMENT

The petitioner on the allegation that the 1st respondent is encroaching into his properties, seeks the following reliefs:

> "i) To issue a writ of mandamus or appropriate writ, order or direction, directing respondent Nos.2 and 3 to carry out a detailed and comprehensive survey of the properties located in the area where the property covered by Ext.P1 is located and identify the extent of excess land in the possession of the 1st respondent, which originally belonged to the petitioner, within a time schedule as may be fixed by this Hon'ble Court;
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> ii) To issue a writ of mandamus or appropriate writ, order or direction, directing the 1st respondent to return to the petitioner, the excess land, if any, in their possession over the extent covered by Ext.P1, as identified in the survey conducted by respondents 2 and 3; and
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> iii) To grant such other relief, which this Hon'ble Court deems fit and proper in the facts and circumstances of the case."

2. I am of the opinion that the petitioner's remedies lie in filing a civil suit against the 1st respondent for the said reliefs and not in this writ petition especially since the resolution of the

dispute involves ascertainment of facts on evidence. Without prejudice to the right of the petitioner to file a suit on the same cause of action, this writ petition is dismissed.

S.SIRI JAGAN,
JUDGE

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